

REMARKS

The Examiner is thanked for the indication that Claims 10 and 25 would be allowable if rewritten in independent form.

By this amendment, Claim 1 has been amended, and no claims 32 and 34 have been added or cancelled. Hence, Claims 1-11, 16-26, 31, and 33 are pending in this application.

FILED IDS STATEMENTS HAVE NOT BEEN ACKNOWLEDGED

The Applicants have filed an Information Disclosure Statement (IDS) on May 12, 2005 and June 3, 2005 (“the unacknowledged IDS statements”). However, the Applicants have not yet received an initialed form PTO-1449 acknowledging receipt and consideration of the unacknowledged IDS statements. Consequently, Applicants respectfully request receipt of an initiated form PTO-1449 for the unacknowledged IDS statements.

SUMMARY OF THE REJECTIONS

Claims 1, 3, 5-9, 11, 16-18, 20-24, 26, 31, and 33 have been rejected under 35 U.S.C. § 103(a) for allegedly being unpatentable over U.S. Patent Number 5,606,693 issued to Nilsen et al. (“*Nilsen*”) in view of “The ServOS Kernal” written by Stefan Schleipfer (“*Schleipfer*”).

Claims 4 and 19 have been rejected under 35 U.S.C. § 103(a) for allegedly being unpatentable over *Nilsen* in view of *Schleipfer* in view of U.S. Patent Number 5,627,994 issued to Levy et al. (“*Levy*”).

The rejections are respectfully traversed.

CLAIM 1 IS PATENTABLE OVER THE CITED ART

Even if the cited art were to be properly combined, Claim 1 recites a combination of elements that are not disclosed, taught, or suggested by *Nilsen* or *Schleipfer*, either individually or in combination. Claim 1, as amended, recites the following combination of elements:

“A database appliance, comprising:
a database server; and
a special purpose operating system having a set of components that include some, but not all, components of a general purpose operating system, whose configuration is dictated based on a said set of services required by the database server,

wherein the set of components of the special purpose operating system are generated by removing one or more features of the general purpose operating system that are not required to provide said set of services to the database server, and
wherein the special purpose operating system is the only operating system installed on and executed by the database appliance” (emphasis added).

It is respectfully submitted that at least the above-bolded portions of Claim 1 are not disclosed, taught, or suggested by *Nilsen* or *Schleipfer*, either individually or in combination.

Schleipfer discusses an approach for a special purpose operating system, but is silent with respect to how the special purpose operating system is generated. As a result, as shall be discussed below, the structural features of Claim 1 are new and non-obvious from the approach of *Schleipfer* and *Nilsen*, taken either individually or in combination.

The Examiner asserted that *Schleipfer* teaches “wherein modifying the general purpose operating system includes removing one or more features of the general purpose operating system that are not required to provide said set of services to the database server” at page 124, right hand column, 4th paragraph and the abstract. However, the Applicants respectfully submit that the portion of *Schleipfer* cited on page 124 lacks any teaching or suggestion of how the special purpose operating system is generated. Instead, this portion merely describes how error handling may be performed by the kernel of the special purpose operating system, rather than by the server modules of *Schleipfer*. However, the responsibility for performing error handling is not analogous to generating a special purpose operating system. Similarly, the Abstract of *Schleipfer* lacks any teaching or suggestion about how the special-purpose operating system is generated.

Claim 1 recites “a special purpose operating system having a set of components that include some, but not all, components of a general purpose operating system, whose configuration is dictated based on a said set of services required by the database server.” *Schleipfer* lacks any teaching or suggestion of a special purpose operating system that includes some, but not all, components of a general purpose operating system. Instead, *Schleipfer* is silent with respect to how the special purpose operating system is generated, and certainly does not teach or suggest a special purpose operating system that has a set of components that include some, but not all, components of a general purpose operating system.

At best, the Abstract of *Schleipfer* merely states that the special purpose operating system of *Schleipfer* includes a kernel. However, the term “kernel” refers to a part of the

special purpose operating system that resides in memory at all times. Importantly, the fact that the special purpose operating system of *Schleipfer* has a kernel does not imply or suggest that the special purpose operating system of *Schleipfer* has any component in common with a general purpose operating system, as the term “kernel” is a general term that is applicable to any portion of any program, such as an operating system, that resides in memory at all times.

The “structure” of program software is a general purpose computer programmed to perform pursuant to the program software. (See *In re Allapat*, 33. F.3d 1526 (Fed. Cir. 1994), *WMS Gaming v. International Game Technology*, 184 F.3d 1339 (Fed. Cir. 1999)). *Schleipfer* does not teach or suggest a general purpose computer programmed having a set of components that include some, but not all, components of a general purpose operating system, whose configuration is dictated based on a said set of services required by the database server. Consequently, the database appliance of Claim 1 recites a structural difference over the approach of *Schleipfer*.

As a result, the element of “a special purpose operating system having a set of components that include some, but not all, components of a general purpose operating system, whose configuration is dictated based on a said set of services required by the database server” is not disclosed, taught, or suggest by *Schleipfer*.

Schleipfer also fails to disclose, teach, or suggest the element of “wherein the set of components of the special purpose operating system are generated by removing one or more features of the general purpose operating system that are not required to provide said set of services to the database server” recited in Claim 1. As explained above, no portion of *Schleipfer* discusses how a special purpose operating system is generated. Consequently, this element cannot be disclosed, taught, or suggested by *Schleipfer*.

Nilsen also does not disclose, teach, or suggest the above-bolded elements of Claim 1. The Office Action acknowledges that *Nilsen* “does not explicitly teach the special purpose operating system and the general purpose operating system as claimed” (see page 3). Consequently, since the Office Action acknowledges that *Nilsen* fails to teach or suggest a special purpose operating system, *Nilsen* cannot possibly show the above-bolded features of Claim 1.

Since *Schleipfer* and *Nilsen* individually do not show the above-bolded elements of Claim 1, it follows that the combination of *Schleipfer* and *Nilsen* also fails to disclose, teach,

or suggest the above-bolded features of Claim 1. Consequently, it is respectfully submitted that Claim 1 is patentable over the cited art and is in condition for allowance.

CLAIM 16 IS PATENTABLE OVER THE CITED ART

Independent Claim 16 recites:

installing on a computer readable medium accessible to one or more processors
a database server; and
**installing on the computer readable medium a special purpose operating
system having a set of components that include some, but not all,
components of a general purpose operating system, whose
configuration is dictated based on a set of services required by the
database server,**
**wherein the set of components of the special purpose operating system are
generated by removing one or more features of the general purpose
operating system that are not required to provide said set of
services to the database server, and**
wherein the special purpose operation system is the only operating system
installed on and executed by the database appliance (emphasis added).

It is respectfully submitted that at least the above-bolded portions of Claim 1 are not disclosed, taught, or suggested by *Nilsen* or *Schleipfer*, either individually or in combination.

Claim 16 recites features similar to Claim 1, except that Claim 16 is recited in method format. As explained above with reference to Claim 1, neither *Nilsen* nor *Schleipfer* disclose, teach, or suggest the subject matter of the above-bolded elements of Claim 16. As a result, it is respectfully submitted that even if *Nilsen* and *Schleipfer* were to be properly combined, the resulting combination would still fail to disclose, teach, or suggest the above-bolded elements of Claim 16. Therefore, it is respectfully submitted that Claim 16 is patentable over the cited art and is in condition for allowance.

CLAIMS 2-11, 17-26, 31, AND 33 ARE PATENTABLE OVER THE CITED ART

Claims 2-11, 17-26, 31, and 33 are dependent claims, each of which depends (directly or indirectly) on one of the claims discussed above. Each of Claims 2-11, 17-26, 31, and 33 is therefore allowable for the reasons given above for the claim on which it depends.

In addition, each of Claims 2-11, 17-26, 31, and 33 introduces one or more additional limitations that independently render it patentable. For example, Claim 17 features the element of “wherein the database server was generated from another database server by

modifying the code of the other database server to optimize the code for execution on said database appliance.” The portion of *Nilsen* cited to show this element (Col. 3, lines 60-65) merely states, *in toto*:

The controller assigns database servers based on the type of request, the load on each of the servers, and priority information. The controller 132 also maintains a record of information about the type of request, and the start and end times for that logging request.

The above-cited portion of *Nilsen* lacks any discussion of generating a database server; consequently, the above-cited portion of *Nilsen* cannot possibly show the features of Claim 17 asserted by the Office Action.

As another example, Claims 3 and 18 each feature the element of “wherein the hardware for said database appliance is selected and configured to optimize performance of one or more services to be performed by the database server.” The portion of *Nilsen* cited to show this element (Col. 3, lines 60-65) merely states, *in toto*:

The controller assigns database servers based on the type of request, the load on each of the servers, and priority information. The controller 132 also maintains a record of information about the type of request, and the start and end times for that logging request.

The above-cited portion of *Nilsen* lacks any discussion of selecting or configuring the hardware of a database appliance; consequently, the above-cited portion of *Nilsen* cannot possibly show the features of Claims 3 and 18 asserted by the Office Action.

As another example, Claims 7 and 22 each feature the additional elements of “a self-configuration module that is capable of performing the steps of: detecting an environment in which the database appliance is being used; and configuring the database appliance based upon the detected environment.” The portion of *Nilsen* cited to show this element (Col. 3, lines 60-65) merely states, *in toto*:

The controller assigns database servers based on the type of request, the load on each of the servers, and priority information. The controller 132 also maintains a record of information about the type of request, and the start and end times for that logging request.

The above-cited portion of *Nilsen* lacks any discussion of any functional component that is capable of detecting its environment or configuring itself based on the detected

environment; consequently, the above-cited portion of *Nilsen* cannot possibly show the features of Claims 7 and 22 asserted by the Office Action.

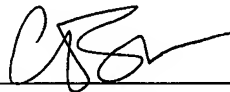
CONCLUSION

It is respectfully submitted that all of the pending claims are in condition for allowance and the issuance of a notice of allowance is respectfully requested. If there are any additional charges, please charge them to Deposit Account No. 50-1302.

The Examiner is invited to contact the undersigned by telephone if the Examiner believes that such contact would be helpful in furthering the prosecution of this application.

Respectfully submitted,

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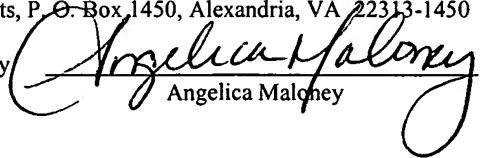
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On March 10, 2006

by


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